

**REMARKS**

Applicants appreciate the Examiner's thorough consideration provided the present application. Claims 1-6 and 8-11 are now present in the application. Claims 1, 3, 5 and 9 have been amended. Claim 11 has been added. Claim 7 has been cancelled in the previous reply. Claim 1, 3 and 5 are independent. Reconsideration of this application, as amended, is respectfully requested.

**Claim Objections**

Claims 1, 2 and 8-10 have been objected to due to the presence of minor informalities. In view of the foregoing amendments, it is respectfully submitted that these objections have been addressed. Accordingly, Applicants respectfully submit that these objections have been obviated and/or rendered moot. Reconsideration and withdrawal of these objections are respectfully requested.

**Claim Rejections Under 35 U.S.C. § 102**

Claim 3 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Yamamoto, JP 62192196. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In light of the foregoing amendments to the claims, Applicants respectfully submit that this rejection has been obviated and/or rendered moot. Without conceding to the propriety of the Examiner's rejection, but merely to timely advance the prosecution of the application, as the Examiner will note, independent claim 3 has been amended to recite a combination of elements including "an entire surface of the hollow chamber cap exposed to the water in the water gauge chamber defining an upper surface of the hollow chamber cap, the entire upper surface being a flat, disc-shaped surface". Applicants respectfully submit that the combination of elements set forth in claim 3 is not disclosed or suggested by the Yamamoto reference relied on by the Examiner.

Yamamoto discloses a washing machine with a temperature sensor 18 inside a chamber cap 17 (see FIG. 3). As shown in FIG. 3 of Yamamoto, the entire surface of the chamber cap 17 exposed to the water in the water gauge chamber 14 is an irregular surface, not a flat, disc-shaped surface. Therefore, Yamamoto fails to teach the above combination of elements set forth in claim 3.

Since Yamamoto fails to teach each and every recitation of amended independent claim 3, Applicants respectfully submit that amended independent claim 3 is not anticipated by Yamamoto.

In view of the above amendments to the claims and remarks, Applicants respectfully submit that claim 3 clearly defines the present invention over the

reference relied on by the Examiner. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 102 are respectfully requested.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 2, 4 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamamoto in view of O'Connell, U.S. Patent No. 5743,646. Claims 1, 5 and 8-10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yamamoto. These rejections are respectfully traversed.

Complete discussions of the Examiner's rejections are set forth in the Office Action, and are not being repeated here.

In light of the foregoing amendments to the claims, Applicants respectfully submit that these rejections have been obviated and/or rendered moot.

As mentioned, Yamamoto fails to teach each and every recitation of amended independent claim 3.

With regard to claims 1 and 5, without conceding to the propriety of the Examiner's rejections, but merely to timely advance the prosecution of the application, as the Examiner will note, independent claims 1 and 5 have been amended to address the Examiner's rejections. Claim 1 recites a combination of elements including "an entire surface of the hollow chamber cap exposed to the water in the water gauge chamber defining an upper surface of the hollow chamber cap" and "the temperature measuring part being below the entire

upper surface of the hollow chamber cap". Claim 5 recites a combination of elements including "the cylindrical probe of the temperature measuring part extends upward from within the hollow chamber cap through a hole at an upper surface of the hollow chamber cap, thereby the cylindrical probe of the temperature measuring part directly contacting a washing water in the water gauge chamber after penetrating the hole". Applicants respectfully submit that the combinations of elements set forth in claim 1 and 5 are not disclosed or suggested by the references relied on by the Examiner.

#### **Claim 1**

As shown in FIG. 3 of Yamamoto, the temperature sensor 18 is in the protruding portion of chamber cap 17. Although the temperature sensor 18 is below a portion of the entire surface of the chamber cap 17 exposed to the water in the water gauge chamber 14 (*i.e.*, the protruding portion of chamber cap 17), the temperature sensor 18 is above most of the entire surface of the chamber cap 17 exposed to the water in the water gauge chamber 14. Therefore, Yamamoto fails to teach the above combination of elements set forth in claim 1.

#### **Claim 5**

The Examiner correctly indicated that Yamamoto fails to teach the cylindrical probe of the temperature measuring part extends upward from

within the hollow chamber cap through a hole in the hollow chamber cap as recited in claim 5. However, the Examiner alleged that it would have been obvious to one skilled in the art at the time of invention to modify the cap disclosed by Yamamoto into the structure recited in claim 5. Applicants respectfully disagree.

In rejecting claims under 35 U.S.C. §103, it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of obviousness. See, In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention.

Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. F-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of

complying with the burden of presenting a *prima facie* case of obviousness. These showings must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999). Note, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be suggested or taught by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1970). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Moreover, a factual inquiry whether to modify a reference must be based on objective evidence of record, not merely conclusory statements of the Examiner. See, In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

Here, the Examiner in the instant Office Action failed to provide any objective factual evidence that anything in the prior art suggests the modification. Therefore, Applicants respectfully submit that the Examiner

failed to comply with the burden of presenting a *prima facie* case of obviousness.

In addition, the Examiner alleged that the mere fact that a given structure is integral does not preclude its consisting of various elements. Applicants respectfully submit that although Yamamoto discloses a combination of elements, it fails to teach the combination of elements recited in claim 5, which is irrelevant to the Examiner's allegation regarding the integral structure or various elements. As shown in FIG. 3 of Yamamoto, the temperature sensor 18 is covered by the chamber cap 17 and therefore cannot directly contact the water. On the other hand, claim 5 recites "the cylindrical probe of the temperature measuring part extends upward from within the hollow chamber cap through a hole at an upper surface of the hollow chamber cap, the cylindrical probe of the temperature measuring part directly contacting a washing water in the water gauge chamber after penetrating the hole". Therefore, not only Yamamoto fails to teach the above combination of elements set forth in claim 5, but also does the structure recited in claim 5 provide more accurate temperature detection than Yamamoto's teachings.

With regard to the Examiner's reliance on O'Connell, this reference has only been relied on for its teachings of the heat insulating material. This reference also fails to disclose the above combinations of elements as set forth in amended independent claims 1, 3 and 5. Accordingly, this reference fails to cure the deficiencies of Yamamoto.

Accordingly, neither Yamamoto nor O'Connell individually or in combination teach or suggest the limitations of amended independent claims 1, 3 and 5. Therefore, Applicants respectfully submit that amended independent claims 1, 3 and 5 clearly define over the teachings of Yamamoto and O'Connell.

In addition, claims 2, 4, 6 and 8-10 depend, either directly or indirectly, from independent claims 1, 3 and 5, and are therefore allowable based on their respective dependence from independent claims 1, 3 and 5, which are believed to be allowable.

In view of the above remarks, Applicants respectfully submit that claims 1-6 and 8-10 clearly define the present invention over the references relied on by the Examiner. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 are respectfully requested.

#### **Additional Claim**

Claim 11 has been added for the Examiner's consideration. Applicants respectfully submit that claim 11 depends directly from amended independent claim 5, and is therefore allowable based on its dependence from amended independent claim 5, which is believed to be allowable. Favorable consideration and allowance of claim 5 are respectfully requested.



### CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently pending rejections and that they be withdrawn.

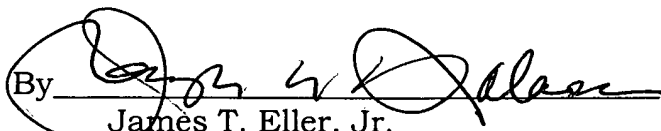
It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.


In the event there are any matters remaining in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
James T. Eller, Jr.  
Reg. No. 39,538

JTE/GH/mmi/asc  


P. O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000